

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
STATESVILLE DIVISION
5:15-CR-00063-KDB-DCK-3

USA

v.

TERRON JUANDRE MICHAUX

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ORDER

THIS MATTER is before the Court upon a motion of the Defendant *pro se* for compassionate release based on the COVID-19 pandemic under 18 U.S.C. § 3582(c)(1)(A) and the First Step Act of 2018. (Doc. No. 88).

Section 603(b) of the First Step Act amended § 3582(c)(1)(A), which previously only allowed a court to reduce a term of imprisonment on motion of the Director of Prisons (BOP). Now a court may entertain a motion filed by a defendant: (1) after full exhaustion of all administrative rights to appeal a failure of the BOP to bring a motion on his behalf; or (2) after lapse of 30 days from the receipt of such a request by the warden of his facility, whichever is less.

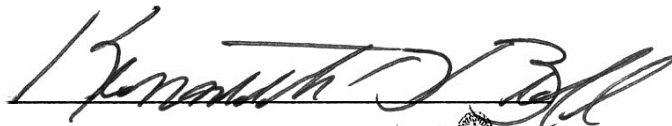
Here, Defendant has not exhausted his remedies as required under 18 U.S.C. § 3582(c)(1)(A). He states that he filed a request for compassionate release with the warden in July, 2020, and never received a reply. However, no such request is attached to this motion. Thus, the Court is unable to verify whether or not the warden has denied the request or whether 30 days have passed since the warden received the request. The motion fails to show that the Defendant has fully exhausted his administrative rights to appeal a failure of the BOP to bring a motion

on his behalf or that 30 days have elapsed from the warden's receipt of a request. Likewise, the Defendant claims to suffer from hypertension, AFIB and obesity but fails to provide medical records to substantiate his medical claims. Therefore, the Court will not consider the merits of his claim. *United States v. Raia*, 954 F.3d 594, 595 (3d Cir. 2020) (denying motion for compassionate release based on COVID-19 where defendant did not seek relief from BOP).

IT IS, THEREFORE, ORDERED, that the Defendant's pro se motion for compassionate release (Doc. No. 88), is **DENIED** without prejudice to a renewed motion properly supported by evidence and after exhaustion of his administrative remedies.

SO ORDERED.

Signed: December 3, 2020

A handwritten signature in black ink, appearing to read "Kenneth D. Bell", written over a horizontal line.

Kenneth D. Bell
United States District Judge

